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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re STEVEN P., a Person Coming Under
The Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVEN P.,

Defendant and Appellant.

F049732

(Super. Ct. No. JW101074)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. Peter A. Warmerdam, Juvenile Court Referee.

Jackie Menaster, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Mary Jo Graves, Assistant Attorney General, Carlos A. Martinez and Sarah J. Farhat, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Vartabedian, Acting P.J., Cornell, J., and Gomes, J.

Minor appellant Steven P. contends the juvenile court abused its discretion by committing him to the California Youth Authority (CYA)¹ for an eight-year six-month maximum period of confinement after he admitted attempting a carjacking and violating probation. (Pen. Code, §§ 215, subd. (a)/664; Welf. & Inst. Code, § 777, subd. (a)(2).) We will affirm the disposition.

BACKGROUND

According to a probation report, probation officers conducted a home visit of 16-year-old Steven on January 17, 2006, and learned he may have been driving a stolen vehicle. The officers waited near the home and saw Steven driving a car matching the description provided by his mother. They motioned for Steven to stop, but he continued driving at a high rate of speed as he went through several intersections, hit another car, and forced others off the road. He eventually turned onto a dead-end street and crashed the vehicle. As the officers approached, Steven ran and entered an occupied car parked at a stop sign. The officers found Steven in the backseat and apprehended him. Steven told the officers he knew the car he had been driving was possibly stolen and he did not want to get caught. Later at Juvenile Hall, Steven changed his story and said he was trying to get away from someone named “Crazy Mike.”

The Kern County District Attorney filed a juvenile wardship petition alleging Steven committed the following offenses: attempted carjacking (Pen. Code, §§ 215, subd. (a), 664; count 1); attempted robbery (Pen. Code, §§ 212.5, subd. (a), 664; count 2); attempted vehicle theft (Veh. Code, § 10851, subd. (a), Pen. Code, § 664; count 3); reckless driving while evading a peace officer (Veh. Code, § 2800.2; count 4); criminal street gang participation (Pen. Code, § 186.22, subd. (a); count 5); resisting arrest (Pen.

¹ The CYA was renamed the division of Juvenile Justice of the Department of Corrections and Rehabilitation, effective July 1, 2005. (Gov. Code, §§ 12838, subd. (a), 12838.3.) We will retain the designation CYA as referenced by the trial court.

Code, § 148, subd. (a)(1); count 6); hit and run driving resulting in property damage (Veh. Code, § 20002, subd. (a); count 7); and violating probation (Welf. & Inst. Code, § 777, subd. (a)(2); count 8). Further, the prosecutor alleged Steven committed counts 1 through 4 for the benefit of, at the direction of, and in association with a criminal street gang (Pen. Code, § 186.22, subd. (b)(1)).

Pursuant to a negotiated plea, Steven admitted attempted carjacking and violating probation, and the remaining counts and enhancements were dismissed. The juvenile court committed Steven to the CYA for a maximum period of confinement of eight years six months.

DISCUSSION

Steven contends the juvenile court abused its discretion in placing him at the CYA because “[t]here is nothing other than the exasperation of the probation department and the juvenile court to suggest that all lesser alternatives have failed or that any lesser alternative cannot succeed.” He also argues the record lacked substantial evidence that a CYA commitment would be of probable benefit to him.

A juvenile court’s commitment decision may be reversed on appeal only upon a showing the court abused its discretion. (*In re Todd W.* (1979) 96 Cal.App.3d 408, 416.) “ ‘We must indulge all reasonable inferences to support the decision of the juvenile court and will not disturb its findings when there is substantial evidence to support them.’ ” (*In re Lorenza M.* (1989) 212 Cal.App.3d 49, 53.)

In determining whether the juvenile court abused its discretion, a commitment must conform to the general purpose of the juvenile court law. (Welf. & Inst. Code, § 202; *In re Todd W.*, *supra*, 96 Cal.App.3d at p. 417.) Legislation enacted in 1984 recognized punishment as a rehabilitation tool and shifted the “emphasis from a primarily less restrictive alternative approach oriented towards the benefit of the minor to the express ‘protection and safety of the public’ [citation] where care, treatment, and guidance shall conform to the interests of public safety and protection.” (*In re Michael*

D. (1987) 188 Cal.App.3d 1392, 1396.) The disposition must also evidence probable benefit to the minor and that less restrictive alternatives would be ineffective or inappropriate. (Welf. & Inst. Code, § 202, subd. (e); *In re Teofilio A.* (1989) 210 Cal.App.3d 571, 576.)

While the juvenile court law contemplates a progressively restrictive and punitive series of dispositions, there is no absolute rule that the court may not impose a particular commitment until less restrictive placements have actually been attempted. (*In re Teofilio A.*, *supra*, 210 Cal.App.3d at p. 577.) “[I]f there is evidence in the record to show a consideration of less restrictive placements was before the court, the fact the judge does not state on the record his consideration of those alternatives and reasons for rejecting them will not result in a reversal.” (*Ibid.*)

Applying these principles, we conclude the juvenile court acted within its discretion by placing Steven at the CYA.

The juvenile court reviewed Steven’s probation records, which indicated Steven previously admitted brandishing a deadly weapon in July 2003. The juvenile court ordered Steven attend an academic program and seek counseling; he failed the academic program and there is no indication he sought the required counseling. Steven was also placed on probation until his 18th birthday.

In September 2003, Steven’s mother alleged Steven was out of her control. The petition was withdrawn later that month, but another petition accused Steven of vandalism. He admitted the vandalism and was continued on probation until his 21st birthday. The probation department placed him at three group homes, but he failed or absconded from each until he was returned to his mother’s custody in March 2004.

In May 2004, the county prosecutor filed a third supplemental juvenile wardship petition alleging Steven attempted a burglary and misdemeanor trespass. Steven admitted the trespass and a subsequent allegation of violating probation. The next month, a fifth supplemental petition accused Steven of burglary, resisting a peace officer, and violating

probation; he admitted the burglary and probation violation allegations. As part of the negotiated plea, the juvenile court committed Steven to the Camp Erwin Owen boot camp facility. Steven subsequently admitted escaping from the boot camp and violating probation in August 2004.

In February 2005, Steven admitted he committed vandalism causing less than \$400 in damage and that he again violated probation. The juvenile court committed him to the Kern Crossroads Facility and ordered him to attend the specialized offender treatment program upon his release.

In March 2005, an eighth supplemental petition alleged Steven threatened to commit a crime resulting in great bodily injury, vandalized property causing under \$400 in damage, and violated probation. In April, the petition was amended to include a street gang enhancement, two counts of street gang participation, and a probation violation. Pursuant to a negotiated plea, Steven admitted making a criminal threat without the gang enhancement and a probation violation. The juvenile court returned Steven to the Kern Crossroads Facility.

On October 27, 2004, a ninth supplemental petition alleged Steven knowingly possessed a stolen vehicle, escaped from the Kern Crossroad Facility, resisted arrest, and violated probation. He admitted possessing the stolen vehicle and violating probation, and was ordered to serve 10 days in Juvenile Hall and complete 634 hours on a work program, which he never completed. In January 2006, the district attorney filed the current wardship petition.

Steven's evaluating probation officer cited concern with Steven's overall school performance and his behavior at Juvenile Hall, various group homes, Camp Erwin Owen, and the Kern Crossroads Facility. The officer also expressly considered Steven's ongoing criminal conduct, affiliation with a criminal street gang, out of control behavior, serious nature of the crimes, use of illegal substances, risk to the community, lack of remorse, failure to reform, and inability to comply with the juvenile court's orders.

Based on the overall circumstances of Steven's current offense, coupled with his gang affiliation, the evaluating officer determined local programs were no longer appropriate for Steven. Instead, the probation report opined "the minor is in need of the education, discipline, treatment, training and reform which could best be met through a commitment to the California Youth Authority." Moreover, the probation officer contacted a CYA consultant who advised that Steven would be able to continue his education while participating in numerous treatment programs, including victim awareness training, gang counseling, anger management, and small group and individual counseling.

After reviewing the probation department's recommendation, the juvenile court recited Steven's lengthy history of delinquency and failure to reform. The juvenile court then explained it was placing him at the CYA because it could "see no value in returning this young man to the Crossroads or to any other local program."

Despite Steven's contention to the contrary, the juvenile court committed him to the CYA after appropriately considering the relevant factors required under the juvenile court law. Steven also asserts the juvenile court abused its discretion because it failed to consider the CYA's numerous inadequacies as suggested by academic reports not before the juvenile court; however, we will not speculate as to what the juvenile court knew or did not know about the CYA. (*People v. Scott* (1994) 9 Cal.4th 331, 356.) The juvenile court's decision to commit Steven to the CYA is well supported by the evidence contained in the record.

DISPOSITION

The judgment is affirmed.